Commission on
Judicial Performance

The Honorable Rachel J. Olguin-Fresquez

2012 Judicial Performance Survey Report

5th Judicial District

RESEARCH & POLLING INC

March 26, 2012

The Honorable Rachel J. Olguin-Fresquez
Clear Creek County Courthouse
P.O. Box 367
Georgetown, CO 80444

Dear Judge Olguin-Fresquez:

I am pleased to make available to you the attached copy of your 2012 Judicial Performance Survey Report. This report includes the survey results from two important stakeholder groups: 1) attorneys who have had cases in your court or who are knowledgeable about your judicial performance; and 2) non-attorneys who have observed your performance in court or who have knowledge of your performance as a judge. In addition to this introduction, the report is divided into five main sections:

1. A brief summary of the results of the attorney and non-attorney surveys.
2. The numerical results of the survey of attorneys in both tabular and graphical form. In addition to the numerical results, this section also contains comments attorneys made about your judicial performance. In some instances the comments have been redacted to eliminate respondent identifying information. A copy of the attorney questionnaire is included in the final section of this report.
3. The numerical results of the survey of non-attorneys in both tabular and graphical form. In addition to the numerical results, this section also contains comments these respondents made on the subject of your judicial performance. In few instances the comments have been redacted to eliminate respondent identifying information. A copy of the non-attorney questionnaire is included in the final section of this report.
4. The fourth section of the report discusses the methodology of the surveys.
5. The final section provides copies of the questions or questionnaires that were used for each survey.

If you have any questions about the methodology and how the survey was conducted, please feel free to contact me at 505-821-5454 or by email at *sanderoff@rpinc.com* (please put the words "Judicial Performance" in the subject line), and for any other questions you might have about the survey please call the Executive Director of the Office of Judicial Performance Evaluation, Jane Howell, at 303-866-6465.

Best regards,

Brian Sanderoff

Brian Sanderoff
President

enc:

Summary of Results

Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score. On average, Judge Rachel J. Olguin-Fresquez received an overall combined average grade of 3.51 in the 2012 Judicial Performance Survey. This is calculated by adding the overall average grade received from attorney respondents, 3.43, to the overall average grade received from non-attorney respondents, 3.59, divided by two.

The average combined grade for all county judges standing for retention in 2012 is 3.45 [not shown below].

Judge Olguin-Fresquez Average Grades (All Years)			
	Combined	**Attorney**	**Non-attorney**
Overall Grade	3.51	3.43	3.59
Sample Size	-	71	175

Table 1

The results presented in this report are based on data collected in 2008, 2009, 2010, and 2011. (See Methodology section for description of sampling process.) Provisional judges will not have samples for the years prior to their appointment. Table 2 shows Judge Olguin-Fresquez's overall average grades for each year in which survey results are available.

Judge Olguin-Fresquez Average Grades by Year					
		Attorney		**Non-Attorney**	
Year	**Combined Average Score**	**Average Score**	**Sample Size**	**Average Score**	**Sample Size**
2008	3.57	3.38	7	3.76	37
2009	3.35	3.39	22	3.30	42
2010	3.54	3.38	24	3.70	58
2011	3.58	3.58	18	3.58	38
Overall	3.51	3.43	71	3.59	175

Table 2

Comparison of Jurors vs. Non-Jurors Among Non-Attorney Population

Among the non-attorney population, jurors tend to grade judges much higher than non-jurors. The juror overall average grade for all county judges standing for retention in 2012 is 3.85, while the overall average grade awarded by non-jurors is 3.29. The effect of this is that judges with a higher percentage of jurors in their sample tend to have higher average grades in the non-attorney survey than those judges with a small percentage of jurors. The number of jurors in a judge's sample is, of course, closely related to the number of jury trials the judge presides over.

The table below shows Judge Olguin-Fresquez's non-attorney results broken out by jurors and non-jurors. It also shows the overall average juror and non-juror grades for all county judges standing for retention in 2012 (see two columns on far right).

Judge Olguin-Fresquez Average Grades for Jurors vs. Non-Jurors (All Years)							
Judge Olguin-Fresquez						All County Retention Judges	
Jurors			Non-Jurors				
Average Score	Sample		Average Score	Sample		Juror Average	Non-Juror Average
	Size	%		Size	%		
3.74	70	40%	3.49	105	60%	3.85	3.29

Table 3

Survey of Attorneys Regarding Judge Rachel J. Olguin-Fresquez

(Sample Size 71)

Survey of Attorneys Regarding Trial Judges

Judge Rachel J. Olguin-Fresquez Sample Size = 71	A	B	C	D	Fail	DK/NA	Average: Rachel J. Olguin-Fresquez	Average: All County Retention Judges
1. Case Management:								
1a. Promptly issuing a decision on the case after trial.	51%	21%	3%	1%	0%	24%	3.59	3.52
1b. Maintaining appropriate control over proceedings.	66%	21%	7%	0%	1%	4%	3.57	3.44
1c. Promptly ruling on pre-trial motions.	48%	24%	4%	0%	0%	24%	3.57	3.41
1d. Setting reasonable schedules for cases.	56%	17%	10%	3%	0%	14%	3.48	3.40
Overall Case Management							3.55	3.44
2. Application and Knowledge of Law:								
2a. Being able to identify and analyze relevant facts.	52%	30%	6%	6%	1%	6%	3.33	3.26
2b. Basing decisions on evidence and arguments.	55%	18%	13%	6%	1%	7%	3.29	3.15
2c. Willing to reconsider error in fact or law.	35%	20%	7%	6%	1%	31%	3.18	3.01
2d. Issuing consistent sentences when the circumstances are similar.	56%	21%	6%	4%	0%	13%	3.48	3.28
Overall Application and Knowledge of Law							3.32	3.18
3. Communications:								
3a. Making sure all participants understand the proceedings.	76%	13%	8%	1%	0%	1%	3.66	3.49
3b. Providing written communications that are clear, thorough and well reasoned.	46%	21%	7%	6%	1%	18%	3.29	3.31
Overall Communications							3.48	3.40
4. Demeanor:								
4a. Giving proceedings a sense of dignity.	72%	11%	13%	1%	1%	1%	3.53	3.39
4b. Treating parties with respect.	76%	13%	6%	3%	1%	1%	3.61	3.36
4c. Conducting his/her courtroom in a neutral manner.	59%	20%	10%	7%	1%	3%	3.32	3.19
4d. Consistently applying laws and rules.	54%	27%	7%	4%	1%	7%	3.36	3.23
Overall Demeanor							3.46	3.29
5. Diligence:								
5a. Using good judgment in application of relevant law and rules.	54%	27%	8%	4%	3%	4%	3.29	3.18
5b. Doing the necessary homework and being prepared for his/her cases.	45%	24%	6%	4%	1%	20%	3.33	3.28
5c. Being willing to handle cases on the docket even when they are complicated and time consuming.	49%	15%	3%	6%	0%	27%	3.48	3.38
Overall Diligence							3.37	3.28
Overall Average Grade:							**3.43**	**3.31**

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Survey of Attorneys Regarding Trial Judges

Judge Rachel J. Olguin-Fresquez

Sample Size = 71

	Percentage	
	Rachel J. Olguin-Fresquez	All County Retention Judges

Would you say the judge is:

Very biased in favor of the prosecution	4%	9%
Somewhat biased in favor of the prosecution	44%	30%
Completely neutral	50%	49%
Somewhat biased in favor of the defense	0%	5%
Very biased in favor of the defense	0%	1%
Don't know or not sure	2%	5%

8. How strongly do you recommend that the Judge be retained in office, or not be retained in office?

Percentages excluding undecided/don't know responses.

Strongly recommend retain	72%	70%
Somewhat recommend retain	19%	16%
Somewhat recommend not retain	3%	7%
Strongly recommend not retain	6%	7%
Total Retain	91%	86%
Total Not Retain	9%	14%

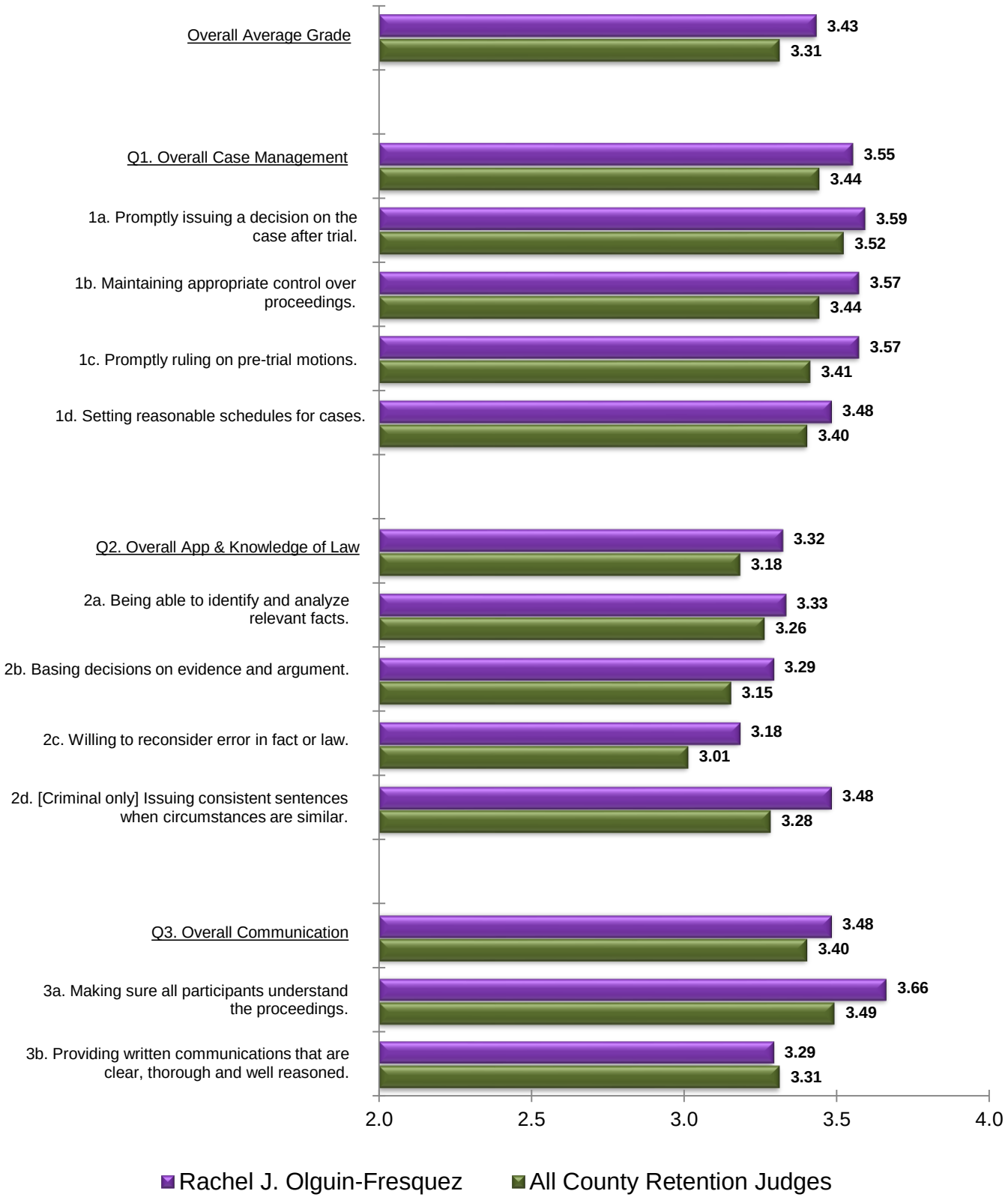
Percentages including undecided/don't know responses.

Strongly recommend retain	66%	66%
Somewhat recommend retain	17%	15%
Undecided or Don't Know	9%	5%
Somewhat recommend not retain	3%	6%
Strongly recommend not retain	6%	7%
Total Retain	83%	81%
Undecided/Don't Know	9%	5%
Total Not Retain	9%	13%

Judge Rachel J. Olguin-Fresquez

Survey of Attorneys Regarding Trial Judges

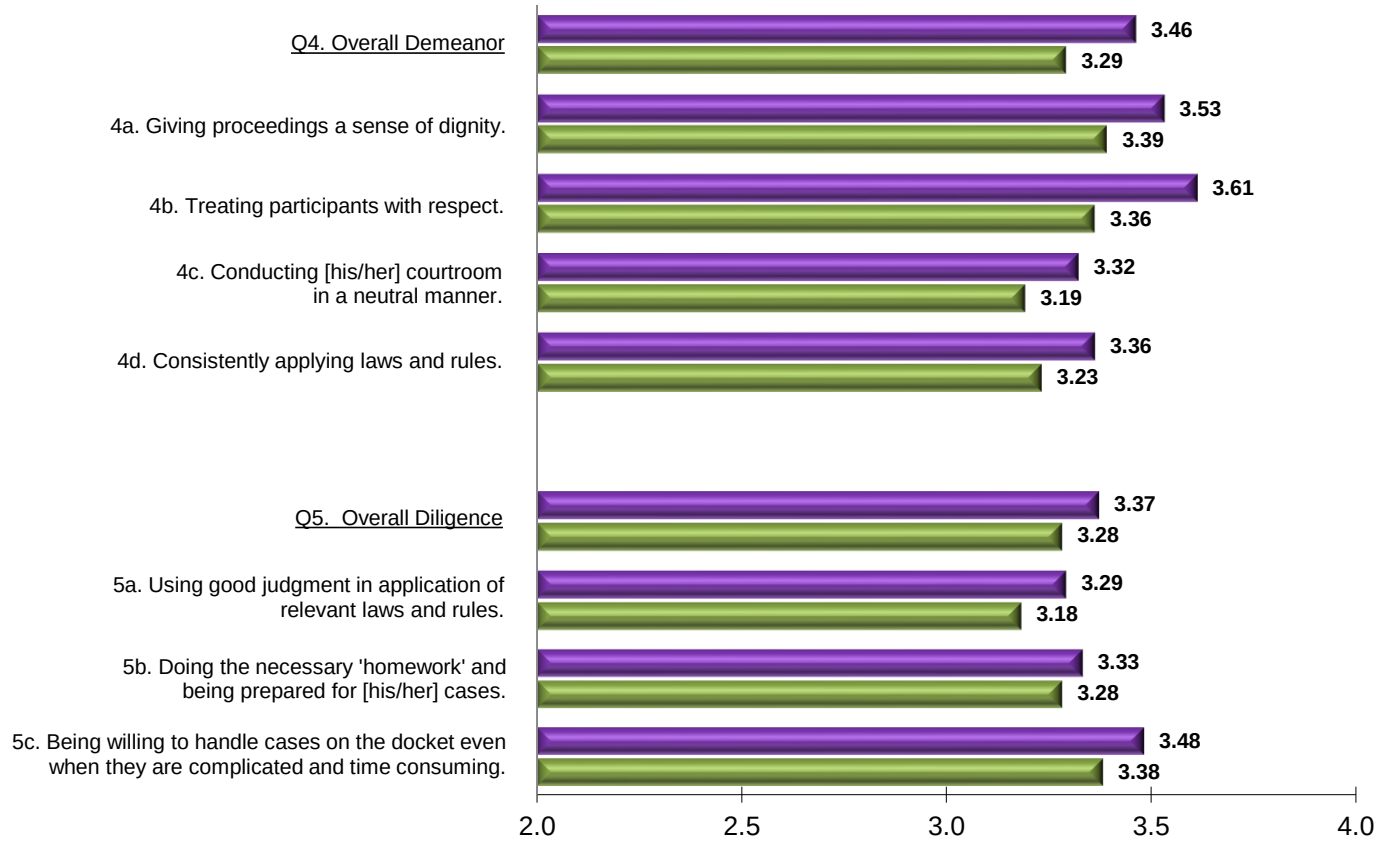
Average Grades



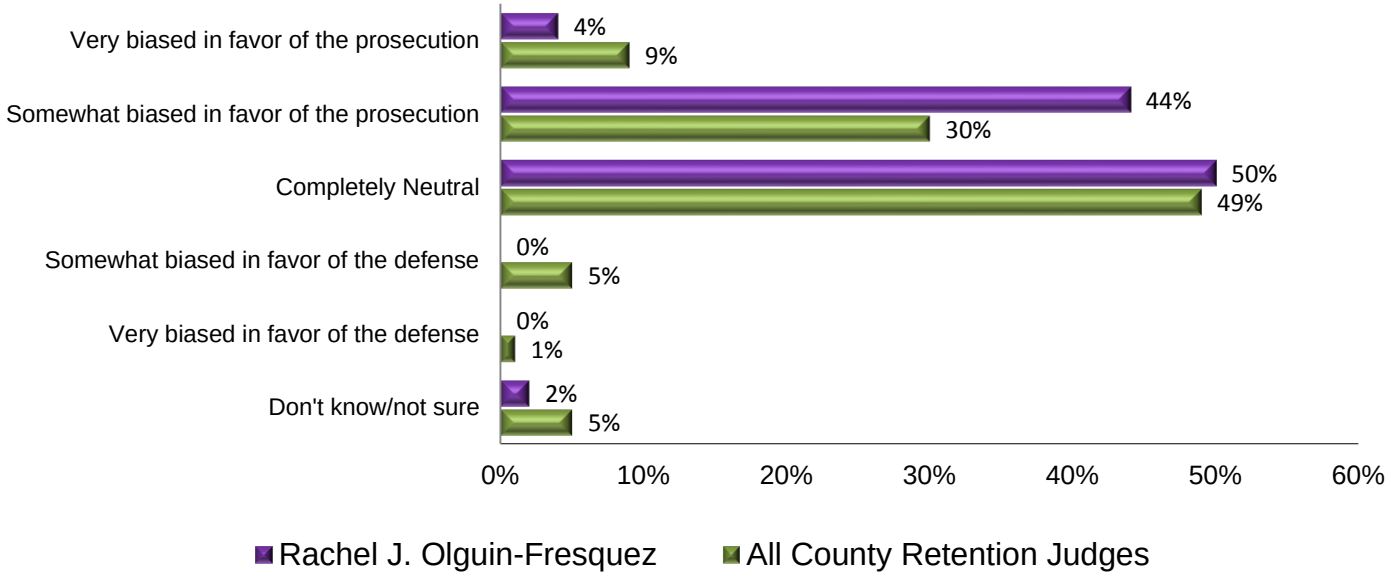
Judge Rachel J. Olguin-Fresquez

Survey of Attorneys Regarding Trial Judges

Average Grades



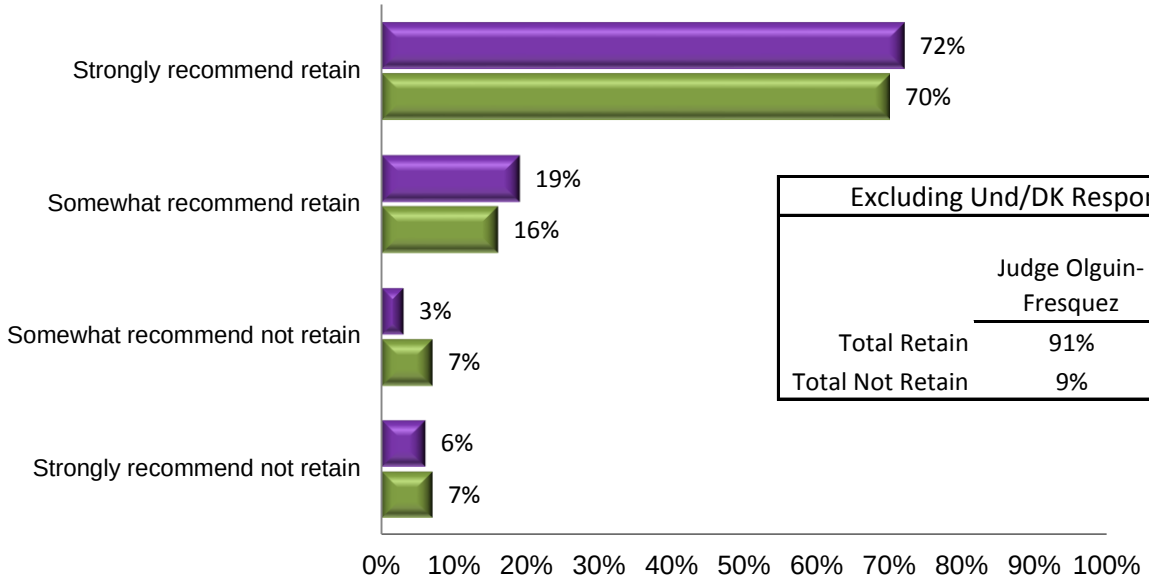
Biased in favor of prosecution/defense.



Judge Rachel J. Olguin-Fresquez
Survey of Attorneys Regarding Trial Judges

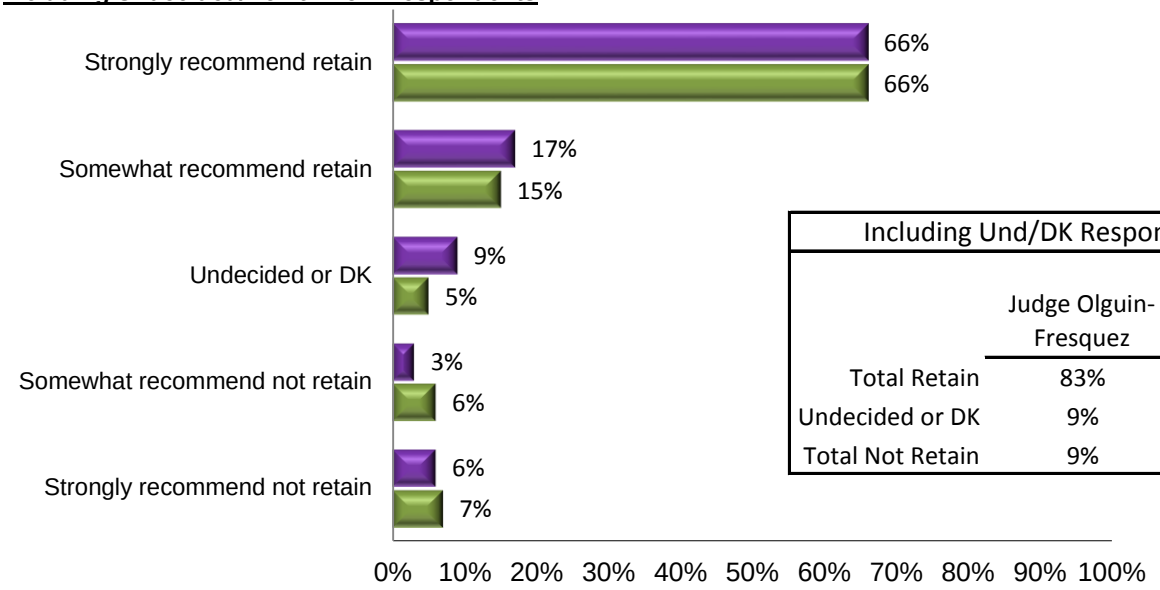
Q8. How strongly do you recommend that Judge Olguin-Fresquez be retained or not retained in office?

Excluding Undecided/Don't Know Respondents



Excluding Und/DK Respondents	Judge Olguin-Fresquez	All Cnty Retention Judges
Total Retain	91%	86%
Total Not Retain	9%	14%

Including Undecided/Don't Know Respondents



Including Und/DK Respondents	Judge Olguin-Fresquez	All Cnty Retention Judges
Total Retain	83%	81%
Undecided or DK	9%	5%
Total Not Retain	9%	13%

Rachel J. Olguin-Fresquez All County Retention Judges

Survey of Non-Attorneys Regarding Judge Rachel J. Olguin-Fresquez

(Sample Size 175)

Survey of Non-Attorneys Regarding Trial Judges

Judge Rachel J. Olguin-Fresquez Sample Size = 175	A	B	C	D	Fail	DK/NA	Average: Rachel J. Olguin-Fresquez	Average: All County Retention Judges
1. Demeanor:								
1a. Giving court proceedings a sense of dignity.	75%	16%	4%	2%	1%	2%	3.65	3.59
1b. Treating participants in the case politely and with respect.	78%	15%	3%	2%	1%	1%	3.68	3.61
1c. Conducting court in a neutral manner.	76%	13%	2%	4%	3%	1%	3.56	3.56
1d. Having a sense of compassion and human understanding for those who appear before the court.	68%	20%	6%	1%	5%	1%	3.47	3.48
						Overall Demeanor	3.59	3.56
2. Fairness:								
2a. Giving participants an opportunity to be heard.	78%	15%	4%	2%	1%	1%	3.67	3.60
2b. Treating those involved in the case without bias.	76%	11%	4%	5%	3%	1%	3.53	3.53
2c. Treating fairly people who represent themselves.	55%	12%	0%	2%	3%	29%	3.60	3.53
2d. Giving each side enough time to present his or her case.	69%	17%	3%	1%	3%	7%	3.59	3.60
						Overall Fairness	3.60	3.57
3. Communications:								
3a. Making sure participants understand the proceedings, and what is going on in the courtroom.	74%	18%	6%	1%	1%	1%	3.64	3.64
3b. Using language that everyone can understand.	74%	21%	3%	1%	1%	0%	3.68	3.67
3c. Speaking clearly so everyone in the courtroom can hear what is being said.	78%	17%	4%	1%	1%	1%	3.71	3.71
						Overall Communications	3.68	3.67
4. Diligence:								
4a. Beginning court on time	58%	29%	6%	2%	3%	2%	3.39	3.49
4b. Maintaining appropriate control over proceedings.	79%	14%	5%	1%	0%	1%	3.72	3.69
4c. Setting reasonable schedules for cases.	62%	19%	2%	2%	2%	12%	3.55	3.59
4d. Being prepared for cases.	69%	16%	4%	2%	1%	9%	3.65	3.62
4e. Managing court proceedings so that there is little wasted time.	65%	20%	9%	2%	2%	2%	3.48	3.52
						Overall Diligence	3.56	3.58
5. Application of Law:								
5a. Giving reasons for rulings.	66%	17%	6%	5%	2%	5%	3.47	3.51
5b. Willing to make decisions without regard to possible outside pressure.	66%	10%	2%	2%	3%	17%	3.60	3.53
5c. Being able to identify and analyze relevant facts.	68%	12%	6%	2%	4%	8%	3.50	3.52
						Overall Application of Law	3.52	3.52
						Overall Average Grade:	**3.59**	**3.58**

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Survey of Non-Attorneys Regarding Trial Judges

Judge Rachel J. Olguin-Fresquez

Sample Size = 175

		Percentage	
		Rachel J. Olguin-Fresquez	All County Retention Judges

6. How biased do you think the Judge is toward the defense or prosecution?

[Please see the questionnaire at the end of report for question wording.]

Biased in favor of the prosecution total	18%	12%
Competely neutral	74%	82%
Biased in favor of the defense total	10%	6%
Average	0.22	0.15

[A positive average indicates bias toward prosecution, and a negative average indicates a bias toward the defense.]

7. How lenient or harsh do you think the sentences generally handed down by Judge are?

[Please see the questionnaire at the end of report for question wording.]

Harsh sentencing total	12%	12%
Competely neutral	71%	78%
Lenient sentencing total	18%	10%
Average	0.02	0.14

[A positive average indicates sentences are harsh, and a negative average indicates sentences are lenient.]

10. How strongly do you recommend that the Judge be retained or not retained in office?

Percentages excluding undecided/don't know responses.

Strongly recommend retain	87%	84%
Somewhat recommend retain	7%	8%
Somewhat recommend not retain	1%	3%
Strongly recommend not retain	5%	5%
Total Retain	94%	92%
Total Not Retain	6%	8%

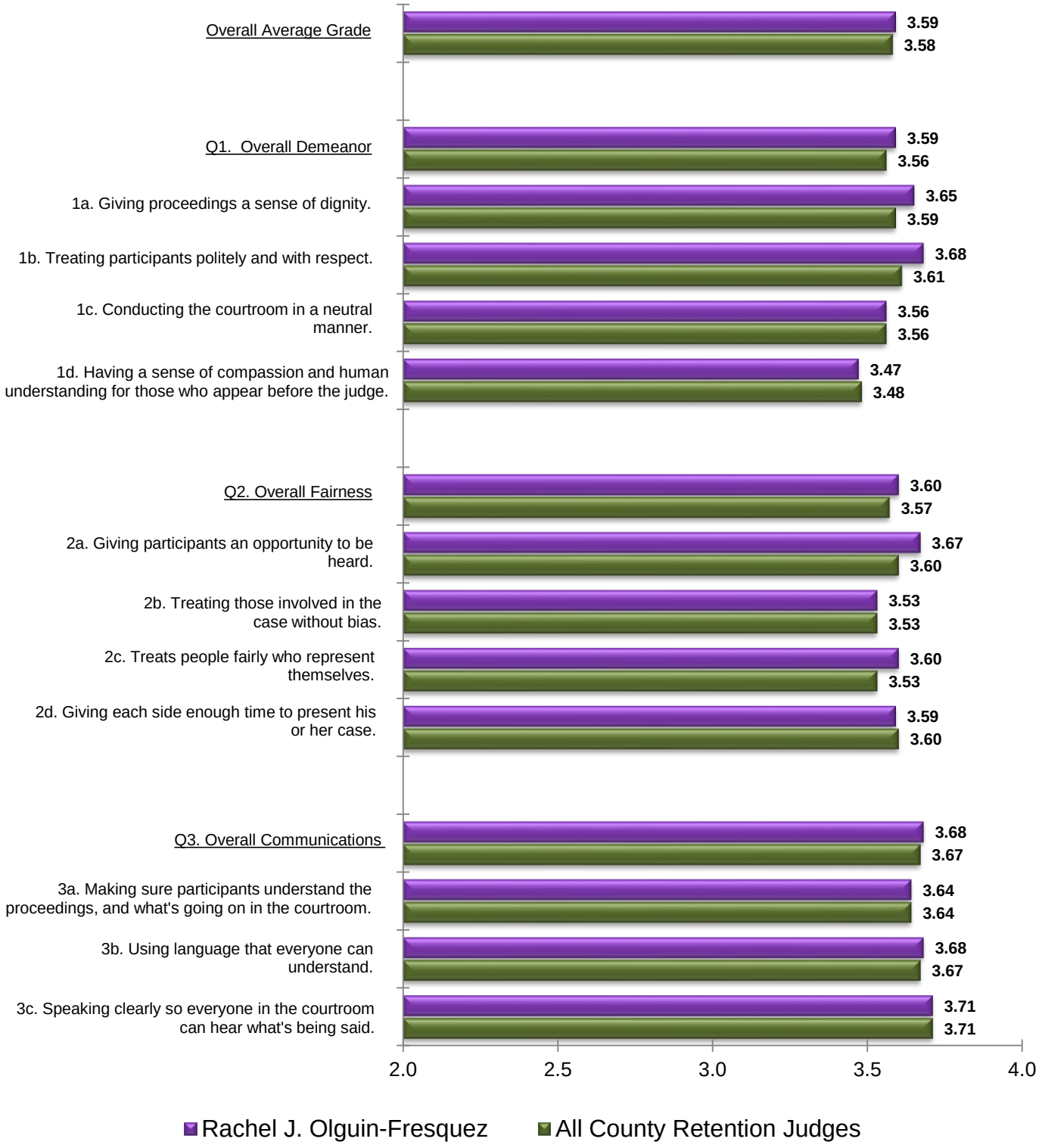
Percentages including undecided/don't know responses.

Strongly recommend retain	79%	77%
Somewhat recommend retain	6%	7%
Undecided or Don't Know	8%	8%
Somewhat recommend not retain	1%	2%
Strongly recommend not retain	5%	5%
Total Retain	85%	84%
Undecided/Don't Know	8%	8%
Total Not Retain	6%	7%

Judge Rachel J. Olguin-Fresquez

Survey of Non-Attorneys Regarding Trial Judges

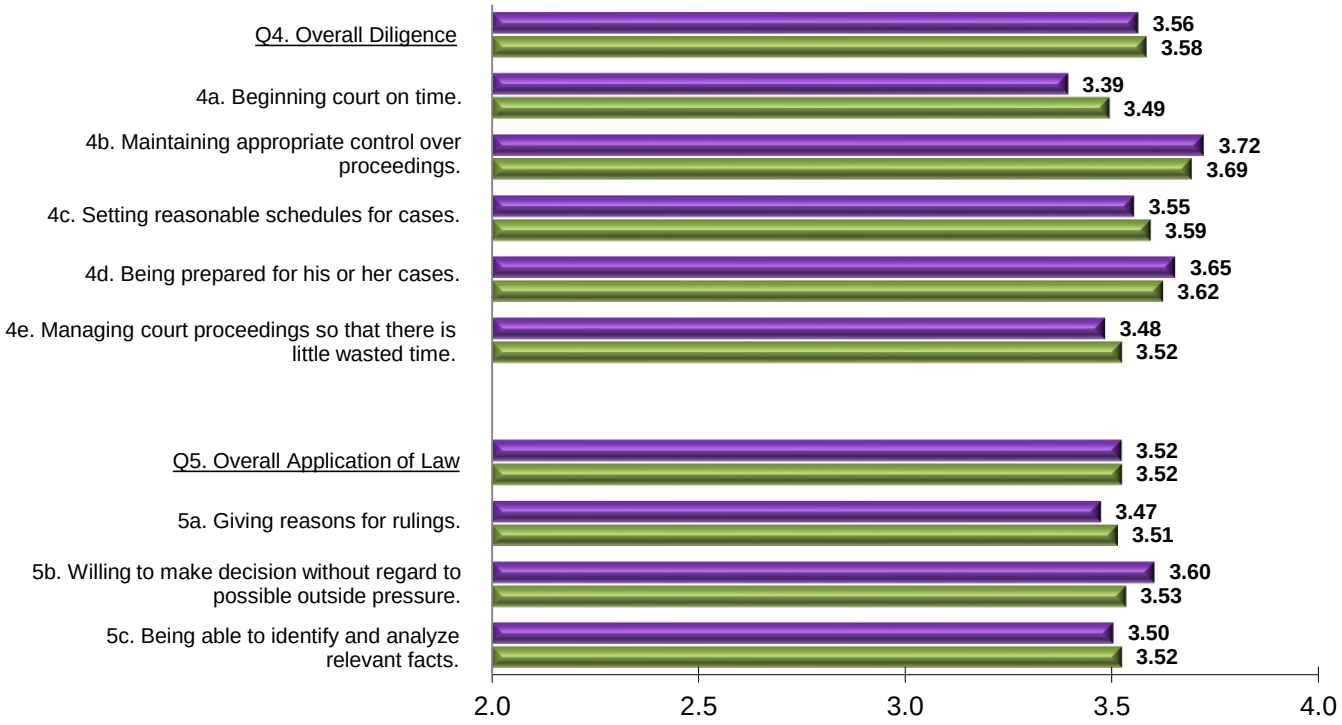
Average Grades



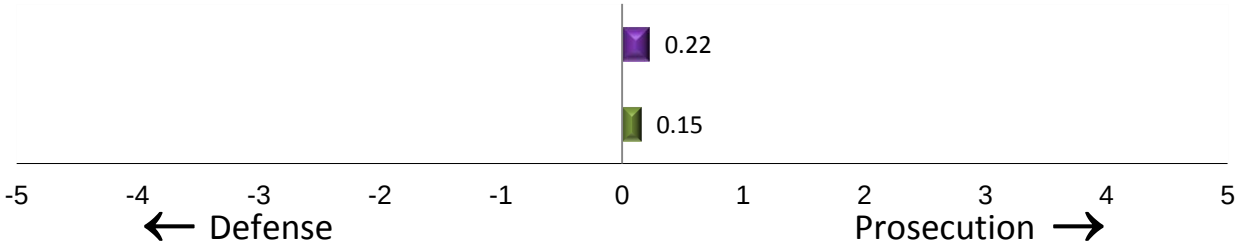
Judge Rachel J. Olguin-Fresquez

Survey of Non-Attorneys Regarding Trial Judges

Average Grades

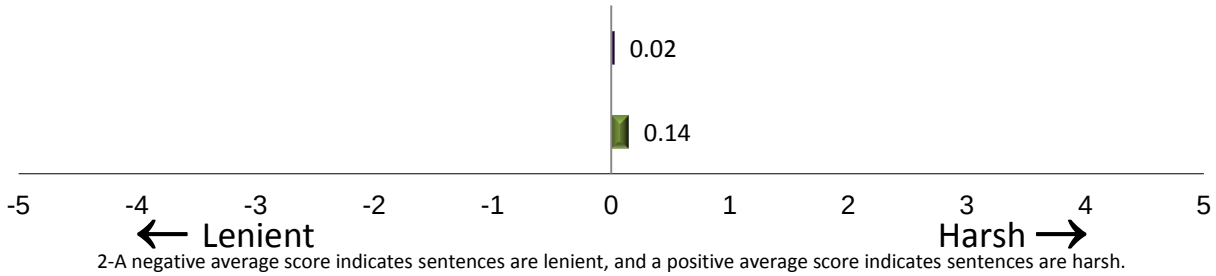


Q6 Biased in favor of prosecution/defense.[1]



1-A negative average score indicates bias toward the defense, and a positive average score indicates bias toward prosecution.

Q7 Lenience or Harshness in Sentencing.[2]



2-A negative average score indicates sentences are lenient, and a positive average score indicates sentences are harsh.

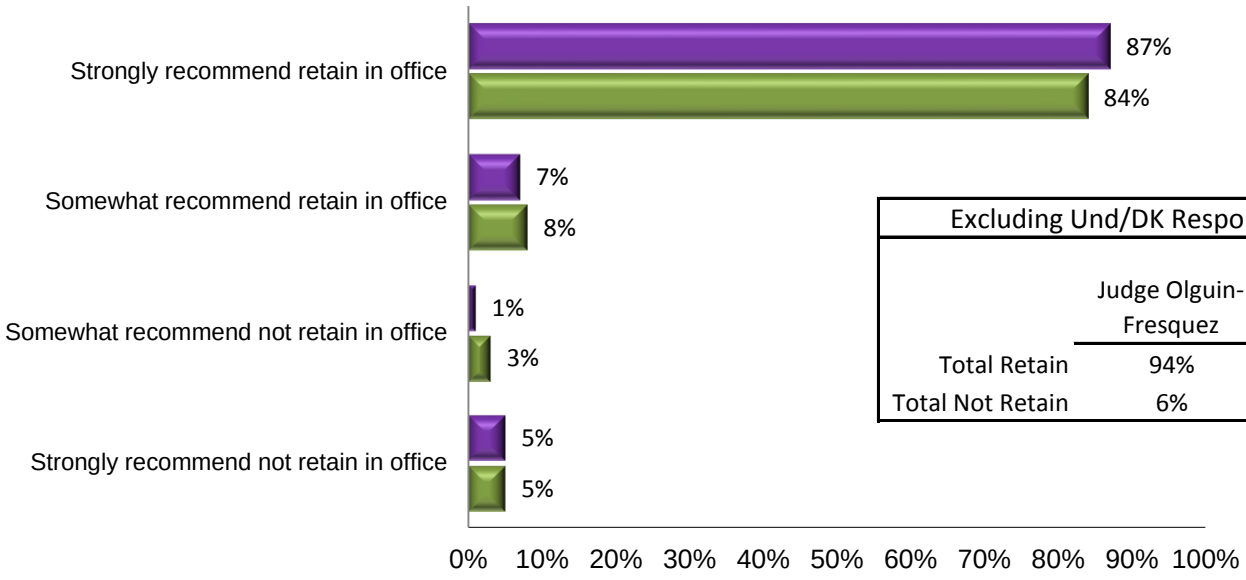
Rachel J. Olguin-Fresquez All County Retention Judges

Judge Rachel J. Olguin-Fresquez

Survey of Non-Attorneys Regarding Trial Judges

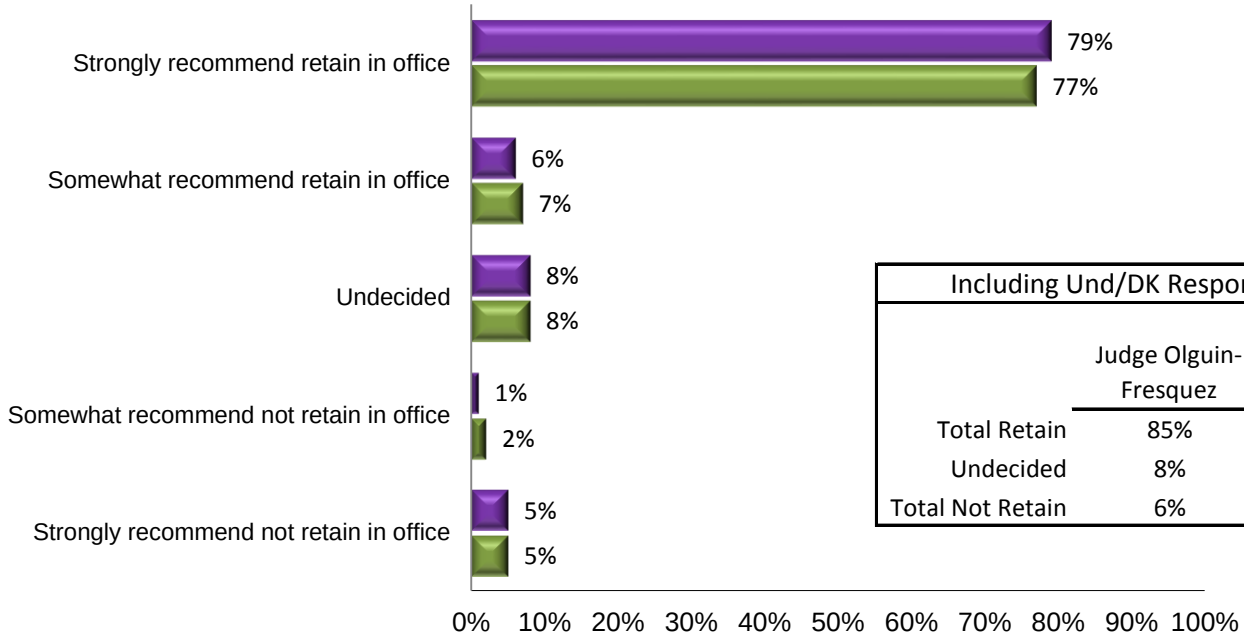
Q10. How strongly do you recommend that Judge Olguin-Fresquez be retained or not retained in office?

Excluding Undecided/Don't Know Respondents



Excluding Und/DK Respondents	Judge Olguin-Fresquez	All Cnty Retention Judges
Total Retain	94%	92%
Total Not Retain	6%	8%

Including Undecided /Don't Know Respondents



Including Und/DK Respondents	Judge Olguin-Fresquez	All Cnty Retention Judges
Total Retain	85%	84%
Undecided	8%	8%
Total Not Retain	6%	7%

Rachel J. Olguin-Fresquez All County Retention Judges

Methodology

Methodology

The results shown in the 2012 Judicial Performance Survey Report are based on two surveys: The Survey of Attorneys Regarding Trial Judges, and the Survey of Non-Attorneys Regarding Trial Judges. Below is a description of the methodology used in the two surveys.

I Attorneys Regarding Trial Judges

a. Sample:

Research & Polling, Inc. received case data with the names of attorneys who had likely been in each judge's courtroom from the following primary sources:

- Colorado Judicial Department
- Colorado District Attorneys' Council
- Colorado Public Defender's Office
- Denver County Courts
- District Attorney's Office, Second Judicial District (Denver)
- District Attorney's Office, Ninth Judicial District

The data from these different sources are combined, duplicates removed, and addresses corrected.

In 2011, the following changes were made to the Attorneys Regarding Trial Judges survey process:

- Only judges that are standing for retention in 2012 were evaluated during this reporting cycle (the intent was to increase the number of completed attorney evaluations for each retention judge by excluding those not standing for retention).
- The number of possible judges that attorney respondents could evaluate was increased from seven to 10.

Attorneys are first mailed a letter inviting them to complete the survey online. The letter provides the link to the online survey, as well as a unique password to access the survey. Approximately one week later, attorneys are sent an email invitation to complete the online survey, which also provides the Web address and their unique password. About a week after the first email is sent, a reminder email is sent, providing the same information. Potential respondents who do not complete the survey after the second email are then telephoned and asked to either complete the survey by phone, or to complete it online.

Since 2010, the Judicial Performance Survey reports are based on a moving average, or rolling sample, of data collected over a period of time equal to the justice's or judge's term of office: ten years for a Supreme Court justice, eight years for a COA judge, six years for a district judge, and four years for a county judge. To use a county judge as an

example: as survey data is collected it is pooled together for four years. After four years, as new data is added to the judge's survey results, the oldest data in the pool is deleted.

b. Questions:

Respondents evaluated judges on 17 aspects of judicial performance using a grade scale of A, B, C, D, or F. (See Questionnaire section.) These grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0. The A through F scale was chosen because it is almost universally recognized and understood. This makes it easy for respondents to complete their questionnaire, and for the public to interpret the results.

Respondents were also asked if they considered the judge biased toward the defense or prosecution in criminal cases. In a final question, respondents were asked to indicate how strongly they would recommend that the justice or judge be retained or not retained in office.

c. Comments:

Respondents were also asked what they considered to be the judge's strengths and weaknesses. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released. Before being given to the judge and the Commission, an attempt is made to redact all respondent identifying information from the comments.

Since 2005, there have been changes to the number of comment questions asked, though the strengths and weaknesses questions have been posed in every survey.

The number to the left of each comment refers to the same attorney respondent in both the strengths section and the weaknesses section.

Most spelling and typographical errors have been corrected.

d. Analysis:

The Attorneys Regarding Trial Judges section first shows a table of the percentage distribution for each of the A through F questions, including "don't know/not applicable" responses. The next column to the right shows the judge's average grade for each question. For comparison purposes, averages were also computed for all county judges standing for retention in 2012 and are shown in the furthest right column on the page. Tables showing the percentage distribution for all questions for all county retention judges are located at the end of this methodology section.

The overall question averages are calculated by adding up the averages for each question and dividing by the number of questions.

The next table shows the percentage distribution of the responses to the question about recommending retention. The first column of percentages is for the report-judge and the second column displays the percentages for all county retention judges. The

percentages are shown both including and excluding "undecided/don't know" responses.

The next page displays the question averages in horizontal bar-graph form. The percentage distribution to the retention question is then presented in the graph on the next page.

The third part of the Attorneys Regarding Trial Judges section of the report lists the comments the attorneys made about the judge's strengths and weaknesses.

e. Cooperation Rate:

The overall cooperation rate for the Attorneys Regarding Trial Judges Survey is calculated as the number of completed survey evaluations divided by the number of possible evaluations resulting in an overall response rate of 45.7% for district judges and 37.6% for county judges. An equivalent response rate for an individual judge is computed in the same manner.

II Non-Attorneys Regarding Trial Judges

a. Sample:

Research & Polling, Inc. received case data with the names of non-attorneys who had likely been in each judge's courtroom from the following primary sources:

- Colorado Judicial Department
- Colorado District Attorneys' Council
- Colorado Public Defender's Office
- Denver County Courts
- District Attorney's Office, Second Judicial District (Denver)
- District Attorney's Office, Ninth Judicial District

The data from these different sources are combined, duplicates removed, and addresses corrected.

In 2011, only the judges standing for retention in 2012 were evaluated. The intent was to increase the number of completed non-attorney evaluations for each retention judge by excluding those not standing for retention. For this evaluation cycle, the following changes were made to the Non-Attorneys Regarding Trial Judges survey process:

- Court staff, probation officers, and court interpreters were asked to complete the survey online, with the possibility of evaluating up to 10 judges
- RPI surveyed all non-attorneys with courtroom experience instead of a random sample of each sub-population (i.e. court employees, court interpreters, probation officers, witnesses, law enforcement personnel, jurors, crime victims, litigants, etc.). The only exception to this is the criminal defendants, for which RPI selected a random sample.

As stated above, court staff, probation officers, and court interpreters were asked to complete the survey online. They are sent an email invitation to complete the online survey, which also provides the Web address and their unique password. About a week after the first email is sent, a reminder email is sent, providing the same information.

Other non-attorneys were surveyed via standard mail. First, they were mailed an initial postcard informing the recipient that he or she would be receiving a questionnaire. Two to three weeks after the postcard was mailed, the potential respondent was sent a personalized introductory letter and a questionnaire with a postage-paid return envelope. If the person did not respond, a second questionnaire and letter were sent approximately four weeks later. Questionnaires are barcoded, and if a respondent mailed back two questionnaires, the second one was deleted from the data file.

Since 2010, the non-attorney section of the Judicial Performance Survey reports have been based on a moving average, or rolling sample, of survey results collected over a period of time equal to the judge's term of office: six years for a district judge and four years for a county judge. To use a county judge as an example: as survey data is collected, it is pooled together for four years. After four years, as new data is added to the judge's survey results, the oldest data in the pool is deleted.

b. <u>Questions:</u>

Respondents evaluated judges on 19 aspects of judicial performance using a grade scale of A, B, C, D, or F. (See Questionnaire section.) These grades were then converted to a numerical score where A = 4, B = 3, C = 2, D = 1 and Fail = 0. The A through F scale was chosen because it is almost universally recognized and understood. This makes it easy for respondents to complete their questionnaire, and for the public to interpret the results.

Respondents were also asked if they considered the judge biased toward the defense or prosecution in criminal cases. In a final question, respondents were asked to indicate how strongly they would recommend that the justice or judge be retained or not retained in office.

A copy of the questionnaire is included in the last section of this report.

c. <u>Analysis:</u>

The Non-Attorneys Regarding Trial Judges section first shows a table of the percentage distribution for each of the A through F questions, including "don't know/not applicable" responses. The next column to the right shows the judge's average grade for each question. For comparison purposes, averages were also computed for all county judges standing for retention in 2012 and are shown in the furthest right column on the page. Tables showing the percentage distribution for all questions for all county retention judges are located at the end of this methodology section.

The overall question averages are calculated by adding up the averages for each question and dividing by the number of questions.

The next table shows the percentage distribution of the responses to the questions about prosecution or defense bias and recommending retention. The first column of percentages is for the report-judge and the second column displays the percentages for all county retention judges. The percentages for the retention question are shown including and excluding "undecided/don't know" responses.

The next page displays the question averages in horizontal bar-graph form. The percentage distribution of the prosecution-defense bias and retention questions are then presented in the graph on the next page.

The third part of the Non-Attorneys Regarding Trial Judges section of the report lists the comments the non-attorneys made about the judge's strengths and weaknesses.

d. Comments:

In addition to the A through F questions, non-attorney respondents were asked what they considered to be the judge's strengths and weaknesses. By statute, these comments are confidential and only provided to the judge and the District Commission on Judicial Performance. They are not released to the public when the rest of the report is released. Before being given to the judge and the Commission, an attempt is made to redact all respondent identifying information from the comments.

Since 2005 there have been changes to the number of comment questions asked, though the strengths and weaknesses questions have been posed in every survey.

The number to the left of each comment refers to the same non-attorney respondent in both the strengths section and the weaknesses section.

e. Cooperation Rate:

The estimated cooperation rate for the non-attorney survey is calculated as the number of completed questionnaires divided by the number of eligible respondents who actually received a questionnaire. The following table shows the total number of questionnaires mailed, completed, non-responses and refusals, undeliverables, and other responses. The table presents the estimated overall cooperation rate as well as the cooperation rate by the different types of respondents. The true cooperation rates are likely higher than shown because of the percentage of people who were mailed questionnaires about judges with whom they may not have had sufficient experience. This is due, in part, to many cases being disposed of without the parties having appeared in court, as well as in the case of law enforcement, the data includes all those who were subpoenaed for a case, not just those who appeared.

A table of the response counts by respondent type for Judge Olguin-Fresquez is shown on the following page, and on the next page is a table of the overall cooperation rates for both the Attorney and Non-Attorney Regarding Trial Judges surveys for all county judges.

Judge Rachel J. Olguin-Fresquez

Judge Response Counts by Type of Respondent

Role Type	*Total Sent*	*No Response*	*Undeliverable/ Not Applicable*	*Other Non-Responses*	*Completes*	*Coop Rate*
Attorneys						
Criminal						
District Attorneys	25	14	1	0	10	41.7%
Defense Attorneys	190	109	30	0	51	31.9%
Civil						
Attorneys for Litigants	7	5	0	0	2	28.6%
Other Attorneys Civil	31	18	5	0	8	30.8%
Total Attorneys	253	146	36	0	71	32.7%
Non-attorneys						
Criminal						
Witness	53	22	20	2	9	27.3%
Law Enforcement	45	12	2	0	31	72.1%
Defendant	625	307	265	10	43	11.9%
Civil						
Litigant	62	23	31	2	6	19.4%
Witness	25	8	9	1	7	43.8%
Jurors	154	68	15	1	70	50.4%
Employees, including Interpreters	10	5	1	0	4	44.4%
Probation Officers	5	0	0	0	5	100.0%
Total Non-attorneys	979	445	343	16	175	27.5%
Grand Total:	**1232**	**591**	**379**	**16**	**246**	**28.8%**

Total Response Counts by Type of Respondent for All County Retention Judges

	Total Sent	No Response	Undeliverable/ Not Applicable	Other Non-Responses	Completes	Cooperation Rate
Attorneys						
Criminal						
District Attorneys	2049	1103	289	0	657	37.3%
Defense Attorneys	8880	5065	774	0	3041	37.5%
Other Attorneys Criminal	12	7	1	0	4	36.4%
Civil						
Attorneys for Litigants	441	266	30	0	145	35.3%
Other Attorneys Civil	1346	701	191	0	454	39.3%
Attorneys, Unknown Role Type	24	8	7	1	8	47.1%
Total Attorneys	12752	7150	1292	1	4309	37.6%
Non-attorneys						
Criminal						
Victim	277	159	90	15	13	7.0%
Witness	4435	2510	1368	182	375	12.2%
Other	549	334	156	20	39	9.9%
Law Enforcement	3638	2574	457	92	515	16.2%
Defendant	24165	11842	9981	329	2013	14.2%
Civil						
Litigant	4982	2497	1744	118	623	19.2%
Witness	1544	856	331	44	313	25.8%
Other	78	50	20	2	6	10.3%
Jurors	11310	5027	1133	268	4882	48.0%
Employees, including Interpreters	666	182	95	12	377	66.0%
Probation Officers	415	109	97	5	204	64.2%
Total Non-attorneys	52059	26140	15472	1087	9360	25.6%
Grand Total:	**64811**	**33290**	**16764**	**1088**	**13669**	**28.4%**

A Final Word Regarding the Survey Results

The most frequently asked question that we receive from judges regarding the survey statistics is, "What is the margin of sampling error associated with these results?" The answer to this question is that a margin of error cannot be calculated since **we are not selecting a random sample** of eligible respondents (attorneys and non-attorneys) to be surveyed; instead, we are attempting to survey **all** members of the eligible population. Since we are not generating a random sample, we cannot estimate a percentage or value of the population sampled with a known probability of error.

Every eligible respondent in the attorney and non-attorney population is now given an opportunity to evaluate judges with whom they have had a recent experience.[1] The only exception is among the criminal defendant population, in which, due to its size, a random sample is selected. The respondents know the purpose and content of the survey, and based on that, decide whether to respond to it. Measures are taken to increase the response rate so that concerns regarding sampling bias can be mitigated. The higher the response rate, the more confident we can feel the results of the respondents are similar to the results of the non-respondents. Attorneys and non-attorneys receive multiple waves of reminders via email or mail to complete the survey. Further, all non-responding attorneys are then contacted on the telephone and given the opportunity to complete the evaluation with the professional interviewer. RPI has contacted hundreds of non-responding attorneys to encourage their participation. We have been informed by the vast majority of the non-responding attorneys that the primary reason for not participating in the survey is because of a lack of sufficient information to evaluate that particular judge.

The Judicial Performance Evaluation Survey is a valuable means, perhaps the only practical means, for the Commissions on Judicial Performance to have a summary of results from structured interviews among stakeholders who have courtroom familiarity with each judge being evaluated. We are continuing to take steps to increase cell sizes and cooperation rates for each judge in order to further enhance this evaluation program.

[1]Attorneys have the opportunity to evaluate up to 10 judges on an online survey. Among the non-attorney population, court staff, probation officers, and interpreters also have the opportunity to evaluate up to 10 judges on an online survey. The remaining non-attorney populations are mailed a paper survey with the opportunity to evaluate one judge.

Survey of Attorneys Regarding Trial Judges

All County Retention Judges Sample Size = 4309	A	B	C	D	Fail	DK/NA	Average Grade
1. Case Management:							
1a. Promptly issuing a decision on the case after trial.	50%	17%	5%	1%	1%	25%	3.52
1b. Maintaining appropriate control over proceedings.	63%	23%	9%	3%	2%	1%	3.44
1c. Promptly ruling on pre-trial motions.	48%	21%	7%	2%	1%	21%	3.41
1d. Setting reasonable schedules for cases.	57%	24%	9%	3%	2%	5%	3.40
						Overall Case Management	3.44
2. Application and Knowledge of Law:							
2a. Being able to identify and analyze relevant facts.	55%	24%	11%	5%	3%	3%	3.26
2b. Basing decisions on evidence and arguments.	51%	23%	12%	6%	4%	4%	3.15
2c. Willing to reconsider error in fact or law.	38%	18%	10%	6%	5%	23%	3.01
2d. Issuing consistent sentences when the circumstances are similar.	50%	23%	10%	4%	3%	11%	3.28
						Overall Application and Knowledge of Law	3.18
3. Communications:							
3a. Making sure all participants understand the proceedings.	65%	22%	8%	2%	1%	2%	3.49
3b. Providing written communications that are clear, thorough and well reasoned.	41%	17%	7%	3%	2%	30%	3.31
						Overall Communications	3.40
4. Demeanor:							
4a. Giving proceedings a sense of dignity.	64%	20%	9%	4%	3%	1%	3.39
4b. Treating parties with respect.	65%	17%	9%	4%	4%	1%	3.36
4c. Conducting his/her courtroom in a neutral manner.	58%	19%	10%	6%	5%	1%	3.19
4d. Consistently applying laws and rules.	55%	20%	10%	5%	4%	5%	3.23
						Overall Demeanor	3.29
5. Diligence:							
5a. Using good judgment in application of relevant law and rules.	52%	23%	11%	6%	4%	3%	3.18
5b. Doing the necessary homework and being prepared for his/her cases.	51%	22%	9%	4%	3%	11%	3.28
5c. Being willing to handle cases on the docket even when they are complicated and time consuming.	53%	16%	7%	3%	2%	18%	3.38
						Overall Diligence	3.28
						Overall Average Grade:	**3.31**

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Survey of Attorneys Regarding Trial Judges

All County Retention Judges

Sample Size = 4309

	Average Grade

Would you say the judge is:

Very biased in favor of the prosecution	9%
Somewhat biased in favor of the prosecution	30%
Completely neutral	49%
Somewhat biased in favor of the defense	5%
Very biased in favor of the defense	1%
Don't know or not sure	5%

8. How strongly do you recommend that the Judge be retained in office, or not be retained in office?

Percentages excluding undecided/don't know responses.

Strongly recommend retain	70%
Somewhat recommend retain	16%
Somewhat recommend not retain	7%
Strongly recommend not retain	7%
Total Retain	86%
Total Not Retain	14%

Percentages including undecided/don't know responses.

Strongly recommend retain	66%
Somewhat recommend retain	15%
Undecided or Don't Know	5%
Somewhat recommend not retain	6%
Strongly recommend not retain	7%
Total Retain	81%
Undecided/Don't Know	5%
Total Not Retain	13%

Survey of Non-Attorneys Regarding Trial Judges

All County Retention Judges Sample Size = 9360	A	B	C	D	Fail	DK/NA	Average Grade
1. Demeanor:							
1a. Giving court proceedings a sense of dignity.	73%	17%	5%	2%	2%	1%	3.59
1b. Treating participants in the case politely and with respect.	77%	14%	4%	2%	2%	1%	3.61
1c. Conducting court in a neutral manner.	74%	15%	5%	2%	3%	1%	3.56
1d. Having a sense of compassion and human understanding for those who appear before the court.	70%	16%	5%	3%	4%	2%	3.48
					Overall Demeanor		3.56
2. Fairness:							
2a. Giving participants an opportunity to be heard.	75%	15%	4%	2%	3%	2%	3.60
2b. Treating those involved in the case without bias.	73%	14%	4%	2%	4%	2%	3.53
2c. Treating fairly people who represent themselves.	53%	10%	3%	2%	3%	29%	3.53
2d. Giving each side enough time to present his or her case.	72%	14%	4%	2%	3%	5%	3.60
					Overall Fairness		3.57
3. Communications:							
3a. Making sure participants understand the proceedings, and what is going on in the courtroom.	77%	14%	4%	2%	2%	1%	3.64
3b. Using language that everyone can understand.	77%	16%	4%	1%	1%	1%	3.67
3c. Speaking clearly so everyone in the courtroom can hear what is being said.	79%	14%	3%	1%	1%	1%	3.71
					Overall Communications		3.67
4. Diligence:							
4a. Beginning court on time	66%	20%	6%	3%	3%	3%	3.49
4b. Maintaining appropriate control over proceedings.	78%	14%	4%	1%	1%	2%	3.69
4c. Setting reasonable schedules for cases.	64%	16%	4%	2%	2%	13%	3.59
4d. Being prepared for cases.	72%	14%	4%	2%	2%	7%	3.62
4e. Managing court proceedings so that there is little wasted time.	68%	19%	6%	2%	2%	2%	3.52
					Overall Diligence		3.58
5. Application of Law:							
5a. Giving reasons for rulings.	66%	17%	5%	2%	3%	8%	3.51
5b. Willing to make decisions without regard to possible outside pressure.	61%	12%	4%	2%	3%	18%	3.53
5c. Being able to identify and analyze relevant facts.	67%	14%	4%	2%	4%	8%	3.52
					Overall Application of Law		3.52
					Overall Average Grade:		**3.58**

Note: Respondents rated judges on various questions using an A to F scale, in which the grades were then converted to numerical scores: A= 4, B=3, C=2, D=1 and F=0. An average score of 4.0 is the highest possible score and a 0.0 is the lowest possible score.

Survey of Non-Attorneys Regarding Trial Judges

All County Retention Judges

Sample Size = 9360

Average Grade

6. How biased do you think the Judge is toward the defense or prosecution?

[Please see the questionnaire at the end of report for question wording.]

Biased in favor of the prosecution total	12%
Competely neutral	82%
Biased in favor of the defense total	6%
Average	0.15

7. How lenient or harsh do you think the sentences generally handed down by Judge are?

[Please see the questionnaire at the end of report for question wording.]

Harsh sentencing total	12%
Competely neutral	78%
Lenient sentencing total	10%
Average	0.14

10. How strongly do you recommend that the Judge be retained or not retained in office?

Percentages excluding undecided/don't know responses.

Strongly recommend retain	84%
Somewhat recommend retain	8%
Somewhat recommend not retain	3%
Strongly recommend not retain	5%
Total Retain	92%
Total Not Retain	8%

Percentages including undecided/don't know responses.

Strongly recommend retain	77%
Somewhat recommend retain	7%
Undecided or Don't Know	8%
Somewhat recommend not retain	2%
Strongly recommend not retain	5%
Total Retain	84%
Undecided/Don't Know	8%
Total Not Retain	7%

Questionnaires

Colorado Judicial Performance
Attorneys Regarding Trial Judges Survey Questions

_ Which of the following types of cases have you observed Judge (Last Name)'s performance? Please circle all that apply. *(Only respondents who indicate they have observed the judge in "criminal other than traffic" cases will be asked question 2d and the "bias" question between 5 and 6.)*

Civil 1
Criminal other than traffic 2
Traffic 3
Domestic 4
Juvenile 5
Probate 6
Other 9

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade Judge ***[Last Name]*** on the following. If, for a specific question you feel that you do not have enough information to grade the judge, please check DK/NA for Don't Know/Not Applicable.

1. Case Management:

a.	Promptly issuing a decision on the case after trial.	A	B	C	D	F	DK/NA
b.	Maintaining appropriate control over proceedings.	A	B	C	D	F	DK/NA
c.	Promptly ruling on pre-trial motions.	A	B	C	D	F	DK/NA
d.	Setting reasonable schedules for cases.	A	B	C	D	F	DK/NA

2. Application and Knowledge of Law:

a.	Being able to identify and analyze relevant facts.	A	B	C	D	F	DK/NA
b.	Basing decisions on evidence and arguments.	A	B	C	D	F	DK/NA
c.	Willing to reconsider error in fact or law.	A	B	C	D	F	DK/NA
d.	*[Criminal only]* Issuing consistent sentences when the circumstances are similar.	A	B	C	D	F	DK/NA

3. Communications:

a.	Makings sure all participants understand the proceedings.	A	B	C	D	F	DK/NA
b.	Providing written communications that are clear, thorough and well reasoned.	A	B	C	D	F	DK/NA

4. Demeanor:

a.	Giving proceedings a sense of dignity.	A	B	C	D	F	DK/NA
b.	Treating participants with respect.	A	B	C	D	F	DK/NA
c.	Conducting his/her courtroom in a neutral manner.	A	B	C	D	F	DK/NA
d.	Consistently applying laws and rules.	A	B	C	D	F	DK/NA

5. Diligence:

a.	Using good judgment in application of relevant law and rules.	A	B	C	D	F	DK/NA
b.	Doing the necessary "homework" and being prepared for his/her cases.	A	B	C	D	F	DK/NA
c.	Being willing to handle cases on the docket even when they are complicated and time consuming.	A	B	C	D	F	DK/NA

Having observed Judge (Last Name) in a criminal case, would you say the judge is: *(This question is asked only if respondent indicated at the beginning of the survey he/she observed the judge in a criminal case.)*

Very biased in favor of the prosecution 1
Somewhat biased in favor of the prosecution 2
Completely Neutral 3
Somewhat biased in favor of the defense..... 4
Very biased in favor of the defense..... 5
Don't Know/Not Sure..... 9

6. What would you say are Judge (*Last Name*)'s strengths?

_____
_____
_____

7. What would you say are Judge (*Last Name*)'s weaknesses?

_____
_____
_____

8. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge (Last Name) be retained in office, or not be retained in office?

Strongly recommend he be retained in office..... 5
Somewhat recommend he be retained in office..... 4
Undecided or don't know enough to make recommendation..... 3
Somewhat recommend he not be retained in office..... 2
Strongly recommend he not be retained in office 1

9. And what would you say are Judge ***[Last Name]***'s weaknesses?

_____
_____
_____
_____
_____
_____

10. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge ***[Last Name]*** be retained in office, or not retained in office?

Strongly recommend he/she be retained in office	5
Somewhat recommend he/she be retained in office	4
Undecided or don't know enough to make recommendation	3
Somewhat recommend he/she not be retained in office	2
Strongly recommend he/she not be retained in office	1

Thank you for taking the time to complete this questionnaire. Please place it in the self-addressed, postage-paid envelope provided and place it in the mail. Your participation in this survey is very much appreciated.

Barcode

Commission on Judicial Performance

Evaluation of
JUDGE [FULL NAME]

If we have made a mistake and you either were not in Judge *[Last Name]*'s courtroom or you feel that you do not have sufficient experience with Judge *[Last Name]* to have an opinion the judge's judicial performance, please just return this questionnaire, unanswered, in the enclosed postage-paid envelope, to stop any further requests to evaluate Judge *[Last Name]*.

Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade the judge on the following. (If you feel that you don't have experience with the judge in a specific area, or just don't know, please circle the number corresponding to "Don't Know/Not Applicable"—DK/NA).

1. Demeanor:	**A**	**B**	**C**	**D**	**F**	**DK N/A**
a. Giving court proceedings a sense of dignity.	4	3	2	1	0	9
b. Treating participants in the case politely and with respect.	4	3	2	1	0	9
c. Conducting his/her courtroom in a neutral manner.	4	3	2	1	0	9
d. Having a sense of compassion and human understanding for those who appear before him/her.	4	3	2	1	0	9

2. Fairness:	A	B	C	D	F	DK N/A
a. Giving participants an opportunity to be heard.	4	3	2	1	0	9
b. Treating those involved in the case without bias.	4	3	2	1	0	9
c. Treating fairly people who represent themselves.	4	3	2	1	0	9
d. Giving each side enough time to present his or her case.	4	3	2	1	0	9

3. Communications:	A	B	C	D	F	DK N/A
a. Makings sure participants understand the proceedings, and what's going on in the courtroom.	4	3	2	1	0	9
b. Using language that everyone can understand.	4	3	2	1	0	9
c. Speaking clearly so everyone in the courtroom can hear what's being said.	4	3	2	1	0	9

4. Diligence:	A	B	C	D	DK F	N/A
a. Beginning court on time.	4	3	2	1	0	9
b. Maintaining appropriate control over proceedings.	4	3	2	1	0	9
c. Setting reasonable schedules for cases.	4	3	2	1	0	9
d. Being prepared for his/her cases.	4	3	2	1	0	9
e. Managing court proceedings so that there is little wasted time.	4	3	2	1	0	9

5. Application of Law:	A	B	C	D	F	DK N/A
a. Giving reasons for rulings.	4	3	2	1	0	9
b. Willing to make decision without regard to possible outside pressure.	4	3	2	1	0	9
c. Being able to identify and analyze relevant facts.	4	3	2	1	0	9

6. ***[If you were in [Last Name]'s courtroom during a criminal case or cases please answer this question, otherwise skip to the next question.]*** On the scale below, please indicate by circling the appropriate number how biased you think Judge ***[Last Name]*** is toward the defense or the prosecution. If you feel Judge ***[Last Name]*** is completely unbiased, circle "0."

Bias toward Defense — **Completely Neutral** — **Bias toward Prosecution**

5 4 3 2 1 0 1 2 3 4 5

7. ***[If you were in [Last Name]'s courtroom during a criminal case or cases please answer this question, otherwise skip to the next question.]*** On the scale below, please indicate by circling the appropriate number how lenient or how harsh you think the sentences generally handed down by ***[Last Name]*** are. If you feel Judge ***[Last Name]*** generally hands down appropriate sentences, circle "0."

Sentences Too Light — **Appropriate Sentences** — **Sentences Too Harsh**

5 4 3 2 1 0 1 2 3 4 5

Though your name will never be associated with your answers, because the judge will see a typed transcript of the comments that you and others write, it is important that you do not include information in the comments below that would unintentionally identify you as the author.

8. What would you say are Judge ***[Last Name]***'s strengths?

_____
_____
_____
_____
_____
_____

Continued on Back Page